

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA
Respondent,
vs.

Case No. 59-CR-37873-LPZ

District Judge Lawrence P. Zatkoff
Magistrate Judge Steven D. Pepe

KENNETH M. WOJNICZ,
Petitioner.

ORDER DENYING PETITIONER’S MOTION FOR PEREMPTORY REVERSAL (DKT. #6)

Petitioner, Kenneth M. Wojnicz, a *pro se* litigant is incarcerated at Kinross Correctional Facility in Kincheloe, Michigan. On January 11, 2008, pursuant to the All Writs Act, 28 U.S.C. 1651, Respondent filed a motion to vacate and set aside his 1959 federal conviction and sentence for unlawful possession of a firearm (Dkt. # 2). This conviction was later used to enhance a state conviction resulting in an indeterminate life sentence of Petitioner. In addition to his motion to vacate Petitioner on May 27, 2008, filed a motion for peremptory reversal of his 1959 federal conviction for unlawful possession of a firearm and his life sentence imposed on 1984 (Dkt. # 6). On June 23, 2008, this motion was referred to the undersigned (Dkt. # 7).

Petitioner filed suit challenging his conviction and sentence claiming that it was in violation of *Gideon v. Wainright*, 372 U.S. 335 (1963) (Dkt. #2). The motion is a reiteration of the basis for his habeas petition currently pending before the court, but without any legal support for this novel motion. The relief sought by Plaintiff, a “peremptory reversal,” does not exist in habeas corpus jurisprudence. Accordingly, Petitioner’s motion is **DENIED**.

The parties to this action may object to and seek review of this Order, but are required to file any objections within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. §

636(b)(1), Fed. R. Civ. P. 72(b) and LR 72.1(d). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon the Magistrate Judge.

SO ORDERED.

Dated: October 1, 2008

Ann Arbor, Michigan

s/Steven D. Pepe

United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ***Report and Recommendation*** was served on the attorneys and/or parties of record by electronic means or U.S. Mail on October 1, 2008.

s/ Jermaine Creary

Deputy Clerk